

MDR Tracking Number: M5-04-1132-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 12-18-03. Date of service 12-10-02 through 12-16-02 per Rule 133.308(e)(1) was not timely filed and will not be reviewed by the Medical Review Division.

The IRO reviewed neuromuscular re-education, manual traction, office visits, myofascial release, manual therapy and massage rendered from 12-18-02 through 10-30-03 that were denied based upon "V".

The IRO determined that the neuromuscular re-education, manual traction, office visits, myofascial release, manual therapy and massage from 12-18-02 through 03-18-03 **were** medically necessary. The IRO further determined that the neuromuscular re-education, manual traction, office visits, myofascial release, manual therapy and massage after 03-18-03 **were not** medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the **majority** of issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 03-18-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

Review of CPT code 97112 dates of service 12-30-02 through 11-20-03 revealed that neither the requestor nor respondent submitted copies of EOB's. Per Rule 133.308(f)(2)(3) the requestor did not provide proof of resubmission or convincing evidence of carrier receipt of the reconsideration submission. No reimbursement recommended.

Review of CPT code 97122 dates of service 12-30-02 through 05-22-03 revealed that neither the requestor nor respondent submitted copies of EOB's. Per Rule 133.308(f)(2)(3) the requestor did not provide proof of resubmission or convincing evidence of carrier receipt of the reconsideration submission. No reimbursement recommended.

Review of CPT code 97124 date of service 11-20-03 revealed that neither the requestor nor respondent submitted a copy of an EOB. Per Rule 133.308(f)(2)(3) the requestor did not provide proof of resubmission or convincing evidence of carrier receipt of the reconsideration submission. No reimbursement recommended.

Review of CPT code 97250 dates of service 12-30-02 through 06-12-03 revealed that neither the requestor nor respondent submitted copies of EOB's. Per Rule 133.308(f)(2)(3) the requestor did not provide proof of resubmission or convincing evidence of carrier receipt of the reconsideration submission. No reimbursement recommended.

Review of CPT code 99213 dates of service 12-30-02 through 06-12-03 revealed that neither the requestor nor respondent submitted copies of EOB's. Per Rule 133.308(f)(2)(3) the requestor did not provide proof of resubmission or convincing evidence of carrier receipt of the reconsideration submission. No reimbursement recommended.

Review of CPT code 97140 date of service 11-20-03 revealed that neither the requestor nor respondent submitted a copy of an EOB. Per Rule 133.308(f)(2)(3) the requestor did not provide proof of resubmission or convincing evidence of carrier receipt of the reconsideration submission. No reimbursement recommended.

Review of CPT code 99214 date of service 11-20-03 revealed that neither the requestor nor respondent submitted a copy of an EOB. Per Rule 133.308(f)(2)(3) the requestor did not provide proof of resubmission or convincing evidence of carrier receipt of the reconsideration submission. No reimbursement recommended.

CPT code 97750-FCE date of service 04-03-03 denied with denial code "F/Z560" (no explanation for denial given on EOB). Per the 96 Medical Fee Guideline MEDICINE GR I (E)(2)(a) additional reimbursement in the amount of \$285.00 (\$500.00 minus carrier payment of \$215.00 is recommended.

This Findings and Decision is hereby issued this 29th day of October 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 12-18-02 through 03-18-03 and 04-03-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 29th day of October 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dlh

NOTICE OF INDEPENDENT REVIEW DECISION

March 11, 2004

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
7551 Metro Center Drive, Suite 100, MS 48
Austin, TX 78744-1609

RE: MDR Tracking #: M5-04-1132-01
 IRO Certificate #: IRO4326

The ____ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ____ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

____ has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in Chiropractic Medicine. ____'s health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to ____ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This patient sustained an injury on ____ while picking up heavy pipe and felt a severe pain to his lower back. He underwent a 360 degree multilevel spinal fusion on 07/15/98. He re-injured his back in 2000 and was under chiropractic care. His provider now is requesting a work hardening program for this patient.

Requested Service(s)

Neuromuscular re-education, manual traction, office visits, myofascial release, manual therapy, and massage from 12/18/02 through 10/30/03

Decision

It is determined that the neuromuscular re-education, manual traction, office visits, myofascial release, manual therapy, and massage from 12/18/02 through 03/18/03 were medically necessary to treat this patient's condition. However, the neuromuscular re-education, manual traction, office visits, myofascial release, manual therapy, and massage after 03/18/03 were not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The continued utilization of a passive therapeutic algorithm to treat this patient's medical condition is not applicable or appropriate. A complete trial of conservative applications with transition to active, patient-driven applications is vital and a 12-week course of applied therapeutics will be appropriate to determine the efficacy of the applied therapeutic. After 12 weeks of unidisciplinary applications in the management of this patient's condition, it is appropriate to progress to upper level return-to-work therapeutics. Continued applications of passive therapeutics do not empower this patient to control his own pain generators, if possible. Passive applications lead to clinical dependence of the application of passive therapeutics to control pain generators.

It is evident from the reviewed medical record that the patient is a chronic pain patient. There is a great degree of responsibility placed on the provider to restore function to this individual, but some of the goals are out of reach. The patient should not consider a return to work in a Very Heavy Physical Demands Classification; it does not seem to be the safest alternative. Thus, it will be necessary for the patient to have some assistance through upper level therapeutics and /or vocational training.

In the management of this patient's condition it is vital to set up a highly structured, multidisciplinary treatment program that will promote return to industry. The provider's application of a continued passive therapeutic algorithm beyond 03/18/03 will not promote this goal. Therefore, It is determined that the neuromuscular re-education, manual traction, office visits, myofascial release, manual therapy, and massage from 12/18/02 through 03/18/03 were medically necessary. However, the neuromuscular re-education, manual traction, office visits, myofascial release, manual therapy, and massage after 03/18/03 were not medically necessary.

The aforementioned information has been taken from the following guidelines of clinical practice and clinical references:

- *Clinical practice guidelines for chronic, non-malignant pain syndrome patients II: An evidence-based approach.* J Back Musculoskeletal Rehabil 1999 Jan 1;13;47-58.
- *Guidelines for lumbar fusion (arthrodesis).* Washington State Department of Labor and Injuries; 2001 Jun. 6p.
- *Unremitting low back pain. In: North American Spine Society phase III clinical guidelines for multidisciplinary spine care specialists.* North American Spine Society. Unremitting low back pain. North American Spine Society (NASS); 2000. 96p.
- Wright A, Mayer TG, Gatchel RJ. *Outcomes of disabling cervical spine disorders in compensation injuries. A prospective comparison to tertiary rehabilitation response for chronic lumbar spinal disorders.* Spine 1999 Jan 15;24(2):178-83.

Sincerely,